



**RESOLUTION NO. 4982**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO A MUNICIPAL BILL-CREDITING AGREEMENT WITH SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT FOR TRANSMISSION OF THE CITY'S POWER ALLOCATIONS FROM THE ARIZONA POWER AUTHORITY, AND AUTHORIZING EXECUTION OF THE AGREEMENT BY THE CHANDLER CITY MANAGER.

WHEREAS, Salt River Project Agricultural Improvement and Power District (SRP) will provide the transmission system available to ensure delivery of the energy allocated to the City in accordance with the terms and conditions of the 50-year Power Sales Contract between the City and Arizona Power Authority referenced in Resolution No. 4983;

NOW THEREFORE BE IT RESOLVED by the Mayor and City Council of Chandler that the City is authorized to enter into a Municipal Bill-Crediting Agreement with SRP to provide the transmission function required under the Power Sales Contract; and the Chandler City Manager is authorized to execute the Municipal Bill-Crediting Agreement upon approval as to its form by the Chandler City Attorney.

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY *GAB*

**CERTIFICATION**

I HEREBY CERTIFY that the above and foregoing Resolution No. 4982 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, and that a quorum was present thereat.

\_\_\_\_\_  
CITY CLERK

## MUNICIPAL BILL-CREDITING AGREEMENT

THIS MUNICIPAL BILL-CREDITING AGREEMENT (this "**Agreement**") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and among **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, an agricultural improvement district organized and existing under the laws of the State of Arizona ("**SRP**") and **City of Chandler**, an Arizona Municipal Corporation ("**Customer**"). Customer and SRP are each hereinafter sometimes referred to individually as a "**Party**" and collectively as the "**Parties.**"

### RECITALS

A. The Hoover Power Plant Act of 1984 (Pub. L. No. 98-381, 98 Stat. 1333) allocated power generated by the Hoover Dam to certain named contractors (the "**1984 Contractors**"), including the Arizona Power Authority ("**APA**"), under three categories of power allocations: "Schedule A," "Schedule B," and "Schedule C."

B. In accordance with the published "Final Hoover Power Marketing Post-1987" document, the APA allocated its allotment of Schedule A and Schedule B power to a number of specified entities, including SRP (collectively, the "**Original Allottees**").

C. The Hoover Power Allocation Act of 2011 (Pub. L. No. 112-72, 125 Stat. 777) (the "**2011 Hoover Act**") statutorily allocated pools of Hoover Dam power under revised Schedules A, B and C (applicable to 1984 Contractors), and a new "Schedule D" category, intended to be made available to Indian tribes and other entities that were not Original Allottees (collectively, "**New Allottees**").

D. The 2011 Hoover Act (i) directed the Western Area Power Administration ("**WAPA**") to allocate 66.7% of the Schedule D power (the "**D-1 Power**") to certain New Allottees (the "**D-1 Allottees**"), and (ii) required non-Tribal D-1 Allottees in Arizona to receive their allocation of D-1 Power through contracts with the APA.

E. The 2011 Hoover Act allocated 11.1 percent of the Schedule D power (the "**D-2 Power**") to the APA for further allocation to New Allottees in the State of Arizona.

F. Customer, as a New Allottee, received from the APA an allocation of D-1 Power, as set forth on Exhibit 1 attached hereto ("**Customer's Allocation**"), and intends to enter into a power sales contract with the APA (the "**APA Contract**"), under which the APA will sell and deliver to Customer Customer's Allocation of Hoover Capacity (as defined in the APA Contract) ("**Customer's Capacity**") and Customer's Allocation of Hoover Energy (as defined in the APA Contract) ("**Customer's Energy**," and together with Customer's Capacity, "**Customer's Capacity and Energy**").

G. As a condition to the APA entering into the APA Contract, Customer must provide evidence to the APA that a transmission system is available to ensure delivery of energy at the delivery point designated in the APA Contract (the "**Transmission Capability Requirement**").

rights or duties under this Agreement.

4.2. Scheduling. Conditioned upon Customer's performance of its obligations under Section 5.1 below, SRP will, and Customer grants to SRP the exclusive authority to, in accordance with the APA Contract, (a) prepare, finalize, revise, and obtain the APA's approval of, schedules for delivery of Customer's Capacity and Energy, and (b) use Customer's pro-rata share of Ancillary Services. Customer may not, without SRP's prior written consent, in its sole discretion, request, obtain, or consent to any revisions of any schedule for the delivery of Customer's Capacity and Energy. SRP may not seek or obtain any change to the amount of Customer's Capacity and Energy that the APA will make available to Customer under the APA Contract.

5. Obligations of the Parties.

5.1. Customer's Obligations. During the Term, Customer shall, at its sole expense:

(a) Cause the APA to deliver Customer's Capacity and Energy to SRP at the Point of Delivery (as defined in the APA Contract);

(b) Obtain and deliver to SRP all statements, estimates, and other records and materials reasonably necessary for SRP to schedule and accept delivery of Customer's Capacity and Energy and otherwise carry out its duties under this Agreement in a timely manner, including, without limitation, any new or revised Capacity and Energy Schedule (as defined in the APA Contract) and any APA estimates of Customer's Capacity and Energy available for delivery;

(c) Pay directly to the APA all amounts due from Customer under the APA Contract, including, without limitation, the rates applicable to Customer's Capacity and Energy;

(d) Promptly advise SRP of any actual or proposed termination, amendment, or supplement of the APA Contract;

(e) Upon SRP's request, reasonably cooperate with SRP as necessary to enable SRP's preparation and joint filing of the IRP (as defined in Section 5.2(b) below); and

(f) Deliver, or cause to be delivered, to SRP all demands, requests, and other notices delivered by the APA to Customer that pertain to the delivery or availability of Customer's Capacity and Energy, including, without limitation, all estimates of available Customer's Capacity and Energy and any notice of increase or decrease in available Customer's Capacity and Energy.

5.2. SRP's Obligations. Effective as of the first date on which the APA makes Customer's Capacity and Energy available for delivery to the Point of Delivery (the "***Delivery Commencement Date***"), and for the duration of the Term, SRP shall:

approved by the APA for receipt of Customer's Capacity and Energy. SRP may, from time-to-time revise the Real Power Loss Factor and the Price Plan, including the Energy (Generation) and FPPAM components thereof, in accordance with SRP's Rules and Regulations and any applicable governmental regulations.

(b) At the conclusion of each monthly SRP billing cycle occurring during the Term (each, a "**Month**"), SRP will calculate a bill credit (the "**Bill Credit**") by multiplying the total Hourly Credits accrued in that Month by the Delivered Output in that Month.

6.2. Application of Bill Credit. SRP will apply the Bill Credit to Customer's retail electric service bill for the Designated Facility for the Month in which the Bill Credit accrued. The Bill Credit will be applied first to the charges for actual hourly energy usage during all on-peak hours; second to shoulder-peak hours; and finally to off-peak hours, as necessary, until the entire Bill Credit has been applied.

7. Customer Representations and Warranties. Customer represents and warrants to SRP that: (i) it is duly organized or formed and validly existing under the laws of the jurisdiction of its incorporation or formation; (ii) it has the corporate, governmental or other legal capacity and authority to execute this Agreement and to perform its obligations hereunder, and all acts necessary for the valid execution, delivery and performance of this Agreement, have or will be taken and performed by Customer or by its board of directors, shareholders, managing members, members or partners, as appropriate; (iii) such execution and performance do not violate or conflict with any law or regulation applicable to it, any provision of its constitutional documents, any order or judgment of any court or government agency applicable to it or any of its assets or any material contract or contractual restriction by which it is bound or affecting it or any of its assets; (iv) subject to Section 2 above, all governmental and other authorizations that are required to have been obtained or submitted by it with respect to this Agreement have been obtained or submitted and are in full force and effect and all conditions of any such authorizations, approvals, consents, notices and filings have been complied with; (v) it is not relying upon any representations of SRP other than those expressly set forth in this Agreement; (vi) it has executed this Agreement based upon its own judgment and upon such advice from such advisors as it has deemed necessary and not in reliance upon any view expressed by SRP; and (vii) all persons executing this Agreement on behalf of Customer are duly authorized by Customer to do so.

8. Further Assurances. Customer and SRP shall execute such commercially reasonable documents and take any and all such reasonable further actions as may be reasonably necessary to implement the provisions, and carry out the intent, of this Agreement.

9. Inspection of Records. Any Party or its Authorized Representative (as defined below) may, during normal business hours, examine and inspect the billing records of the other Party, as such records relate to the Customer Allocation or the Bill Credit and to the extent permitted by law and consistent with the policies of said examined Party relating to inspection of records.

10. Uncontrollable Forces. No Party shall be considered to be in breach of this Agreement to the extent that a failure to perform its obligations under this Agreement is due to an

Physical Address:

1600 N. Priest  
Tempe, Arizona 85281-8100  
Attn: Director of Supply and Trading

13. Miscellaneous.

13.1. Business Days. If the time for performance of any obligation under this Agreement expires on a non-Business Day, such performance will be due on the next following Business Day. As used in this Agreement, a "***Business Day***" means any day other than a Saturday, Sunday, or Federal Reserve Bank holiday.

13.2. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party may assign its interest in this Agreement in whole or in part without the prior written consent of the other Party, which consent will not be unreasonably withheld, conditioned, or delayed. Any assignment in violation of this Section 13.2 will be void.

13.3. Relationship of the Parties. Nothing in this Agreement will ever be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to the Parties. Neither party will be deemed the agent or employee of, or, except with respect to SRP's authority to schedule deliveries under Section 4.2 above, have a right or power to bind, the other Party without its express written consent. For avoidance of ambiguity, nothing in this Agreement shall require or authorize SRP to enter into or execute any commodity trade option or swap as an agent on behalf of Customer.

13.4. Amendment. This Agreement may not be amended, modified, or supplemented unless such amendment, modification, or supplement is in writing and signed by the Parties or their respective successors in interest.

13.5. Entire Agreement. This Agreement, including its exhibits, is the final, complete and exclusive statement of the agreement among the Parties with respect to the subject matter of this Agreement. There are no oral representations, understandings or agreements covering the same subject matter as this Agreement. This Agreement supersedes and cannot be varied, contradicted or supplemented by evidence of, any prior or contemporaneous discussions, correspondence, or oral or written agreements or arrangements of any kind.

13.6. Governing Law; Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Arizona, without regard to conflicts of law principles. Any action, suit or proceeding arising out of or relating to this Agreement shall be prosecuted in a state or federal court of competent jurisdiction in Maricopa County, Arizona, and the parties irrevocably submit to the jurisdiction of any such court. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW,

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first set forth above.

**CUSTOMER:**

**City of Chandler**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SRP:**

**Salt River Project Agricultural  
Improvement and Power District**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SCHEDULE 1**

**Designated Facility**

<b>SRP Account No.</b>	<b>Service Address/Location</b>	<b>Meter Number</b>	<b>Reference Name</b>
<b>318-780-005</b>	<b>1475 E. Pecos Road</b>	<b>2373598 / 2373625</b>	<b>Pecos Road Surface Water Treatment Plant (PU 1)</b>
<b>853-172-004</b>	<b>1475 E. Pecos Road</b>	<b>2323098</b>	<b>Pecos Road Surface Water Treatment Plant (PU 2)</b>